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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,381	04/20/2004	David Lawrence Phillips	16599-US	4821

7590 03/21/2005

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<p>✓</p> <p>Office Action Summary</p>	<p>Application No.</p> <p>10/828,381</p>	<p>Applicant(s)</p> <p>PHILLIPS, DAVID LAWRENCE</p>	
	<p>Examiner</p> <p>Alicia M Torres</p>	<p>Art Unit</p> <p>3671</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-10, 19, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt in view of Johnson.

3. Regarding claims 1, 2, 4-10, McNutt discloses an apparatus comprising:

a chassis (11) having a front end, a rear end, a left rail (12), a right rail (12), a pair of front wheels (unnumbered) mounted at the front end and having a track width, and a pair of rear wheels (unnumbered) mounted adjacent the rear end and having a track width greater than that of the pair of front wheels;

an operator module (unnumbered seat and steering wheel) mounted on the chassis (11), at least a portion of the left rail (12) and right rail (12) extending from under the operator module (at 13) to define an uncovered area between the left rail (12) and right rail (12) adjacent the front end of the chassis (11);

a first row of two cutting units (34) in front of the pair of front wheels; and

a second row of three cutting units (39), one of the cutting units (39) in the second row being positioned in the uncovered area between the left rail (12) and the right rail (12), as per claim 1; and

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wherein the cutting units (34, 39) are reels rotating on generally horizontal axes, as per claim 2; and

wherein the uncovered area appears to be at least 5 square feet in size, as per claim 8; and

wherein each of the pair of front wheels are smaller in diameter than each of the pair of wheels (see Figure 2), as per claim 9; and

wherein the cutting units (34) are non-pivotable on a vertical axis, as per claim 10.

However, McNutt fails to disclose wherein the second row of three cutting units are located behind the pair of front wheels; and

the other two cutting units in the second row being movable to a transport position inside the track width of the pair of rear wheels, as per claim 1; and

wherein the pair of rear wheels are driven by a power supply, as per claim 4; and

wherein the power supply is an internal combustion engine, as per claim 5; and

wherein the power supply is at least partially behind the pair of rear wheels, as per claim 6; and

wherein the pair of rear wheels are steered, as per claim 7.

Johnson discloses a similar device wherein the second row of cutting units (C, C') are located behind the pair of front wheels (11); and

the cutting units (C, C') in the second row being movable to a transport position inside the track width of the pair of rear wheels (12, see dotted position of Figure 1), as per claim 1; and

wherein the pair of rear wheels (12) are driven by a power supply, as per claim 4; and

wherein the power supply is an internal combustion engine, as per claim 5; and

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wherein the power supply is at least partially behind the pair of rear wheels, as per claim 6; and

wherein the pair of rear wheels (12) are steered, as per claim 7.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the positionable cutting units of Johnson on the device of McNutt in order to provide for highway travel.

4. Regarding claims 19, 20 and 22, McNutt discloses an apparatus comprising:

a front pair of wheels and a rear pair of wheels mounted to the chassis (11), at least one pair of wheels being steerable and driven by the power supply;

the rear pair of wheels having a greater track width than the front pair of wheels; and

a first row (34) and a second row (39) of cutting units mounted on arms (12) extending from the chassis (11), the first row (34) including two cutting units in front of the front pair of wheels and the second row (39) including three cutting units;

each of the cutting units (34, 39) being at least primarily uncovered by the operator module (unnumbered wheel and seat) and the power supply (unnumbered) in a mowing position, as per claim 19; and

wherein the chassis (11) includes a pair of rails (12), one cutting unit (39) being positioned between the pair of rails (12), as per claim 20.

However, McNutt fails to disclose a chassis on which an operator module is mounted in front of a power supply, the chassis being partially covered by the operator module and the power supply;

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the second row including three cutting units behind the front pair of wheels; and
being within the track width of the rear wheels in a transportation position, as per claim
19; and

wherein the power supply is primarily behind the rear pair of wheels, as per claim 22.

Johnson discloses a similar device wherein the second row of cutting units (C, C') is
behind the front pair of wheels (11); and

being within the track width of the rear wheels (12) in a transportation position.

It would have been obvious to one having ordinary skill in the art at the time the invention was
made to include the positionable cutting units of Johnson on the device of McNutt in order to
provide for highway travel.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt and
Johnson as applied to claim 1 above, and further in view of Bednar et al., hereafter Bednar.

The device is disclosed as applied to claim 1 above. However, the combination fails to
disclose wherein the cutting units are rotary blades rotating on generally vertical axes.

Bednar discloses a similar gang mower wherein the cutting units (34) are rotary blades
rotating on generally vertical axes.

It would have been obvious to one having ordinary skill in the art at the time the
invention was made to include the rotary mowers of Bednar on the gang mower of McNutt and
Johnson in order to provide for less maintenance.

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6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt and Akgulian and further in view of Sallstrom.

Regarding claim 11, McNutt discloses an apparatus comprising:

a ladder type chassis (11) having a front end and a rear end;

a pair of front wheels (unnumbered) mounted to a pair of front axles (unnumbered) mounted to the front end of the chassis (11);

a first row of two cutting units (34) mounted to pivotable arms (31) extending from the front end of the chassis (11) in front of the pair of front wheels;

a second row of three cutting units (39) mounted to pivotable arms (46) extending from the chassis (11);

an operator module (seat and steering wheel) mounted to the chassis (11) at least primarily behind the second row of cutting units (39);

the rear wheels (unnumbered) having a track width, as per claim 11; and

wherein the chassis (11) includes a left rail (12) and a right rail (12), a portion of each rail (12) being under at least one of the operator module and the power supply (at 13), a portion of each rail (12) adjacent the front end of the chassis being uncovered by either of the operator module and the power supply, as per claim 12.

However, McNutt fails to disclose wherein the second row of three cutting units extends behind the pair of front wheels;

a pair of driven and steered rear wheels mounted to the chassis adjacent the rear end of
the chassis and behind the second row of cutting units;

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the pivotable arms in the second row movable to at least two distinct positions; one of the positions holding two of the cutting units in a full vertical position within the track of the rear wheels; and

a power supply mounted to the chassis adjacent the rear end of the chassis and at least primarily behind the operator module and the pair of rear wheels, as per claim 11.

Akgulian discloses a similar device wherein the second row of cutting units (29, 30) extends behind the pair of front wheels (16);

the pivotable arms (unnumbered) in the second row movable to at least two distinct positions; one of the positions holding two of the cutting units (29, 30) in a full vertical position within the track of the rear wheels (14, see Figure 16), as per claim 11.

Sallstrom discloses a tractor including a driven and steered rear wheel (10) mounted to the chassis (2) adjacent the rear end of the chassis (2);

a power supply (6) mounted to the chassis (2) adjacent the rear end of the chassis (2) and at least primarily behind the operator module (12, 14) and rear wheel (10), as per claim 11.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotable cutting units of Akgulian on the device of McNutt in order to provide for transporting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the drive of Sallstrom on the device of McNutt in order to allow for drive of the vehicle.

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7. Claims 12, 15, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt Akgulian and Sallstrom as applied to claim 11 above, and further in view of Johnson.

The device is disclosed as applied above. However, the combination fails to disclose wherein the chassis includes a left rail and a right rail, a portion of each rail being under at least one of the operator module and the power supply, a portion of each rail adjacent the front end of the chassis being uncovered by either of the operator module and the power supply, as per claim 12; and

further comprising a hood over the power supply, the hood having a screened air intake, as per claim 15; and

wherein each cutting unit is only pivotable on at least one horizontal axis, as per claim 18.

Johnson discloses wherein the chassis (A) includes a left rail (unnumbered) and a right rail (unnumbered), a portion of each rail being under at least one of the operator module (13, 14) and the power supply (18), a portion of each rail adjacent the front end of the chassis being uncovered by either of the operator module (13, 14) and the power supply (18), as per claim 12; and

further comprising a hood (unnumbered, see figure 2) over the power supply (123), the hood having a screened air intake (124), as per claim 15; and

wherein each cutting unit (C, C', D) is only pivotable on at least one horizontal axis (at 105a), as per claim 18.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rails of Johnson on the device of McNutt, Akgulian and Sallstrom in order to provide for highway travel.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt, Akgulian, Sallstrom and Johnson as applied to claim 12 above, and further in view of Worthington '293.

The device is disclosed as applied above. However, the combination fails to disclose wherein the left rail and right rail are generally parallel to each other and are spaced farther apart from each other adjacent the front end of the chassis than the rear end of the chassis.

Worthington discloses a similar device wherein the left rail (1) and right rail (1) are generally parallel to each other and are spaced further apart from each other adjacent the front end of the chassis than the rear end of the chassis (see figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the frame of Worthington on the device of McNutt, Akgulian, Sallstrom and Johnson in order to better accommodate the weight of the cutting units.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt, Akgulian, Sallstrom and Johnson as applied to claim 12 above, and further in view of Ronning.

The device is disclosed as applied above. However, the combination fails to disclose wherein one cutting unit of the second row of cutting units is positioned between the uncovered portions of the left rail and the right rail.

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Ronning discloses a similar device wherein one cutting unit (D) of the second row of cutting units is positioned between the uncovered portions of the left rail (56) and the right rail (56).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the center cutting unit of Ronning on the device of McNutt, Akgulian, Sallstrom and Johnson in order to obtain a continuous cutting path.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt and Akgulian and Sallstrom as applied to claim 11 above, and further in view of Gerzanich.

The device is disclosed as applied above. However, the combination fails to disclose wherein the pair of front wheels are non-driven and non-steered.

Gerzanich discloses a similar vehicle wherein the pair of front wheels are non-driven and non-steered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-powered front wheels of Gerzanich on the device of McNutt, Akgulian and Sallstrom in order to provide adequate traction force to the powered wheels.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt, Akgulian, and Sallstrom as applied to claim 11 above, and further in view of Speiser.

The device is disclosed as applied above. However, the combination fails to disclose wherein the operator module is pivotably mounted to the chassis.

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Speiser discloses a similar device wherein the operator module (140) is pivotably mounted to the chassis (103).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotable operator module of Speiser on the device of McNutt, Akgulian, and Sallstrom in order to comfortably accommodate deferent users.

Response to Arguments

12. Applicant's arguments with respect to claims 1-20 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

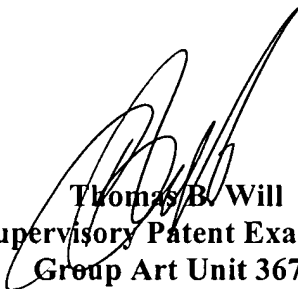
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
March 14, 2005
